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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,111	08/15/2001	Baden Michael Powell	GP-301052	8430

7590 11/22/2002
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EXAMINER

MARTIR, LILYBETT

ART UNIT PAPER NUMBER

2855

DATE MAILED: 11/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/929,111

Applicant(s)

POWELL, BADEN MICHAEL

Examiner

Lilybett Martir

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-15 is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 2 recites the limitation "said clamp portions" in line 6. There is insufficient antecedent basis for this limitation in the claim since only a single clamp portion has been defined in said claim.

4. In claim 2, the recitations of "said test pallet configured as said production pallet" makes said claim indefinite, since it is not clearly described or disclosed in said claim how a production pallet is configured in order for similarities and differences to be established between the two elements. Also, in said claim, the recitation of "at least one clamp portion in the same location as said production pallet" makes said claim indefinite, since no location has been defined or disclosed for the claimed pallet and therefore no arrangement or correlation between the elements can be deduced from said recitation. The contents of the above mentioned claims could not be drawn by the examiner, and therefore said claims were examined based on what was comprehended from the interpretation of the above rejected recitations.

5. In claim 3, the recitation of "a test code to communicate not to proceed with any machining operations" makes said claim indefinite, since it is not clear how said limitation further structurally defines or describes any of the elements that comprise the claimed

invention, and what the applicant refers to when he recites his "machining operations" since no machining operations have been defined in said claim or in the claim that it depends upon. The contents of the above mentioned claims could not be drawn by the examiner, and therefore said claims were examined based on what was comprehended from the interpretation of the above rejected recitations.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crews, Jr. (Pat. 4,718,281) in view of Krainski, Jr. (Pat. 4,332,175).

- With respect to claim 1, Crews, Jr. teaches the utilization of a test part as in element 12 having clamp portions 18 and 23 each having a load cell as in elements 17 and 22, clamping the test part as noted in Figure 1 and collecting data from the load cells (Col. 3, lines 30-31). Crews, Jr. lacks the use of a recording device to record data from said load cells. Krainski, Jr. teaches the utilization of recording means combined with load cells so that the load cell output goes to said recording means (Col. 3, lines 35-37). One of ordinary skill in the art would have readily recognized the advantages and desirability of utilizing recording means to record the load cell's data to save it for future comparison and evaluation of said data.

8. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crews Jr. (Pat. 4,718,281) in view of Krainski, Jr. (Pat. 4,332,175) and further in view of Shelor (Pat. 3,661,099).

- With respect to claim 2, Crews Jr. teaches the utilization of at least one clamp portion as in elements 18 and 23, and a load cell in every clamp portion as in elements 17 and 22. Crews Jr. fails to disclose said configuration on a test pallet and an on board data acquisition collector. Krainski, Jr. teaches the utilization of recording means to record load cell data (Col. 3, lines 35-37). Shelor teaches the utilization and loading for the purpose of testing of a pallet deck as shown by elements 1,2 and F↓ in Figures 1 and 4 (Col. 3, lines 37-40). One of ordinary skill in the art would have readily recognized the advantages of utilizing recording means to record the load cell's data to save it for future comparison and evaluation of said data. One of ordinary skill in the art would have also readily recognized the advantages of utilizing a test pallet instead of a simple specimen to provide for the testing of a different element therefore making said device versatile.
- With respect to claim 3, Krainski teaches the utilization of a code or signal to proceed with the application of a desired load which inherently suggests the utilization of a similar signal to stop the loading (Col. 2, lines 64-68).

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crews Jr. in view of Krainski, Jr. and Shelor as applied to claim 2 above, and further in view of McClure et al. (Pat. 5,219,264).

- With respect to claim 4, Crews Jr. lacks the utilization of a proximity switch. McClure et al. teaches the utilization of proximity detectors as in elements 10 in combination with a clamping assembly as in elements 6. One of ordinary skill in the art would have readily recognized the advantages and desirability of utilizing proximity switches to detect the presence of the specimen.

10. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crews Jr. in view of Krainski, Jr. and Shelor as applied to claim 2 above, and further in view of Piety et al. (Pat. 6,078,874).

- With respect to claim 5, Crews Jr. lacks the utilization of a case enclosing a data acquisition collector. Piety et al. teaches the utilization of a case enclosing an on-board data acquisition collector as in element HPC (Col. 2, lines 47-49). One of ordinary skill in the art would have readily recognized the advantages and desirability of preventing damages to a data-handling device that may be caused by environmental hazards leading to malfunction.
- With respect to claim 6, Crews Jr. lacks the utilization of the data acquisition device to download data in an electronic readable format. Piety et al. teaches the utilization of a data acquisition device to store and download data in an electronic readable format (Col. 2, lines 59-62). One of ordinary skill in the art would have readily recognized the advantages and desirability of utilizing a device with storing and downloading functions to


save and protect data to save it for future comparison and evaluation of said data.


Allowable Subject Matter


11. Claims 7-15 are allowed.
12. The following is a statement of reasons for the indication of allowable subject matter: Applicant's method steps for monitoring clamp loads on a production test pallet are neither disclosed nor suggested in any of the available prior art.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilybett Martir whose telephone number is (703)305-6900. The examiner can normally be reached on 9:00 AM to 5:30 PM.
14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (703)305-4705. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3432 for regular communications and (703)305-3432 for After Final communications.
15. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800


Lilybett Martir
Examiner
Art Unit 2855


November 18, 2002